

REMARKS

By Office Action mailed June 15, 2005, pending claims 1-17 stand rejected, reconsideration of which is respectfully requested in view of the above amendments and following remarks.

Election/Restrictions

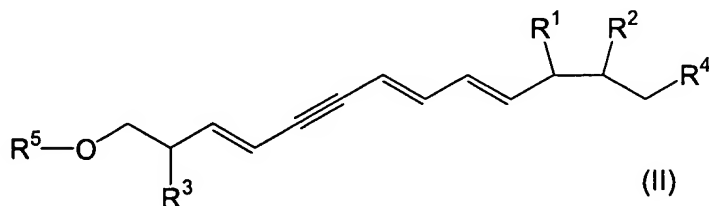
Pursuant to the petition dated 16 March 2005, the Examiner noted that Claims 3-5, which were previously withdrawn from consideration, have been regrouped with Claims 1-2 and 6-17. The Examiner further noted that since the Applicants stated in the paper dated 27 September 2004 that Claims 1-17 read on the elected species, Claims 3-5 will be included in the art rejection dated 16 December 2004.

Rejection of Claims 1-17 under 35 U.S.C. 102(b)

The Examiner rejected Claims 1-17 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,316,648 ("Serhan"). In particular, the Examiner contends that Serhan teaches the instant invention wherein  $R^4$  is  $-R^9-R^{13}-R^{11}$ ,  $R^5$  is aryl, and  $R^{1-3}$  is OH (see the compound in col. 38, lines 5-6). The Examiner further contends that Serhan teaches pharmaceutical compositions containing these compounds as well as methods treating inflammation, pulmonary, autoimmune and respiratory diseases.

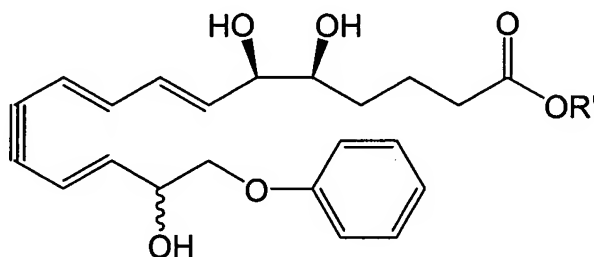
Applicants traverse this rejection for the following reasons:

Applicants respectfully submit that Serhan does **not** teach compounds of formula (II) where  $R^4$  is  $-R^9-R^{13}-R^{11}$ . As noted above, the compounds of formula (II) have the following formula:



where, *inter alia*,  $R^1$ ,  $R^2$  and  $R^3$  can all be hydroxy,  $R^5$  can be optionally substituted aryl (i.e., phenyl), and  $R^4$  can be  $-R^9-R^{13}-R^{11}$ .  $R^9$  is defined as direct bond or a straight or branched alkylene chain,  **$R^{13}$  is defined as a branched alkylene chain, a straight or branched alkenylene chain or a cycloalkylene** and  $R^{11}$  is defined as  $-C(O)OR^7$  or  $-C(O)N(R^7)_2$  (where  $R^7$  can be hydrogen, alkyl, aryl or aralkyl).

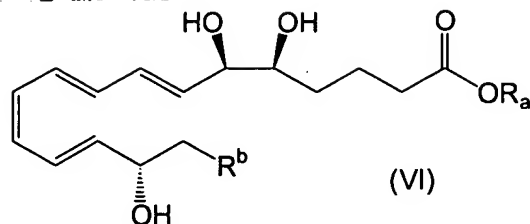
The Examiner specifically contends that the following compounds disclosed in Serhan anticipate the compounds of formula (II) when  $R^4$  is  $-R^9-R^{13}-R^{11}$ ,  $R^5$  is aryl and  $R^{1-3}$  is OH:



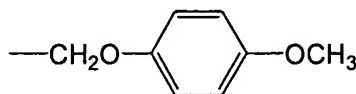
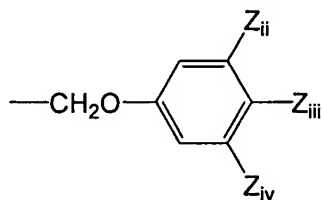
(where  $R'$  is presumably methyl).

The difference between the compounds disclosed in Serhan and the compounds of formula (II) of the instant invention where  $R^4$  is  $-R^9-R^{13}-R^{11}$  is that  **$R^{13}$  in the compounds of the instant invention can not be an *unbranched* alkylene chain.** In other words,  $R^{13}$  in the compounds of the instant invention **has to be present and has to be a branched alkylene chain, a straight or branched alkenylene chain or a cycloalkylene.** The part corresponding to  $R^{13}$  in the Serhan compounds is an **unbranched** alkylene. No combination of  $R^9$  and  $R^{13}$  in the compounds of formula (II) will arrive at an **unbranched** alkylene chain for this part of the Serhan compounds. Accordingly, Applicants respectfully submit that the compounds disclosed in Serhan in Column 38, lines 5-6, do not anticipate the compounds of the invention. Withdrawal of the rejection of Claims 1-17 under 35 U.S.C. 102(b) in view of Serhan is thereby respectfully requested.

Furthermore, Applicants respectfully submit that the general teachings of Serhan do not anticipate the compounds of formula (II). The structurally-closest generic formula disclosed in Serhan to the compounds of formula (II) of the instant invention is generic formula (VI) (see Serhan, column 20, lines 1-28):

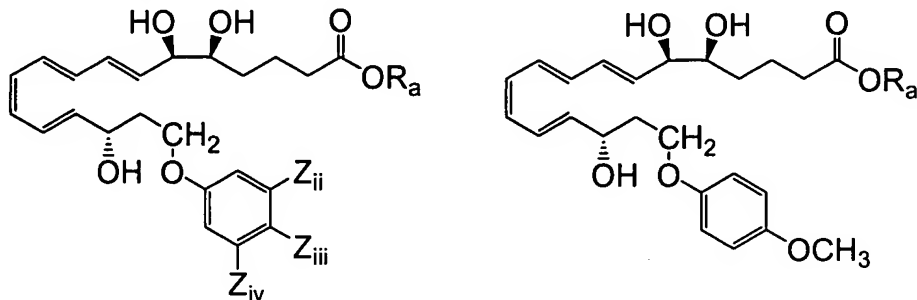


where  $R_a$  can be hydrogen or alkyl and  $R^b$  can be one of the following:



where  $Z_{ii}$  and  $Z_{iv}$  can be halogen, methyl, hydrogen and hydroxyl and  $Z_{iii}$  can be  $-NO_2$ ,  $-CN$ ,  $-C(O)-R_1$ , hydrogen and  $-S(O)_3H$  ( $R_1$  can be hydrogen, alkyl, cycloalkyl, aralkyl or substituted phenyl).

This generic formula does not encompass the compounds of instant application because the linkage between the carboxylate group and the vicinal diol in the formula is an unbranched alkylene chain (as discussed above), because there is no triple bond present in the formula and because  $R^b$  introduces an additional methylene group between the carbon to which  $R^b$  is attached and the terminal phenoxy group. In other words, this generic formula is directed to the following compounds:



In contrast, the compounds of the invention do not have an unbranched alkylene chain between the carboxylate and the vicinal diol, the compounds do have a triple bond, and the

compounds only have a methylene between the phenoxy group and the carbon to which the hydroxy is attached. There is no teaching or suggestion in the disclosure of Serhan which would motivate one skilled in the art to make the compounds of the instant invention.

Accordingly, Applicants respectfully submit that the general disclosure of Serhan does not render obvious the compounds of the instant invention.

Finally, with respect to the elected species of the compounds of formula (II) wherein  $R^4$  is  $-R^9-O-R^{10}-R^{11}$ , Applicants respectfully submit that Serhan does not disclose or suggest any compounds having this side chain. This substituent requires that an oxygen atom is either directly attached to the carbon to which  $R^4$  is attached or is attached to a carbon in the  $R^9$  chain (which is attached to the carbon to which  $R^4$  is attached) and also requires that the oxygen atom be attached to the  $R^{10}$  group. In other words, in its simplest form, this substituent can result in  $R^4$  being  $-OCH_2C(O)OH$  or  $-CH_2-OCH_2C(O)OH$ . None of the formulae disclosed Serhan allow for such a side chain. Thus, the disclosure of Serhan does not anticipate or render obvious the compounds of the invention where  $R^4$  is  $-R^9-O-R^{10}-R^{11}$ .

In conclusion, Applicants respectfully submit that Claims 1-17 are patentable under 35 U.S.C. 102(b) in view of the teachings of Serhan and respectfully request the withdrawal of this rejection with respect to these claims. Favorable consideration of the pending claims in view of the foregoing remarks and an early Notice of Allowance are earnestly solicited.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

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